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OFFICE OF PETITIONS

In re Application of
Boyd
Application No. 09/884,715
Filed: June 19, 2001
Attorney Docket No. 4-31830B

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: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
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This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/GB97/00226, filed January 24, 1997, set forth in the amendment submitted concurrently with the instant petition.

The petition is **DISMISSED AS MOOT**.

Applicant timely claimed benefit to intermediate application no. 09/117,154, which is a 371 application of PCT/GB/97/00226. Now, petitioner seeks to claim benefit of PCT/GB/97/00226, which is the national stage of application no. 09/117,154.

However, no petition is required. As set forth in MPEP 1893.03(c), page 1800-149, a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. See also MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. §371.

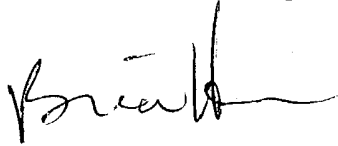
In view of the above, the petition under 37 CFR 1.78(a)(3) is dismissed as involving a moot issue.

The \$1,330.00 petition fee submitted with the instant petition will be credited to deposit account no. 19-0134.

Enclosed please find a filing receipt which reflects that application no. 09/117,154 is a 371 application of PCT/GB97/00226.

Any questions concerning this decision on petition may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712. All other inquiries concerning either the examination procedures or status of the application should be directed to Technology Center AU 1648.

This application is being returned to Technology Center AU 1648 for further examination.

A handwritten signature in black ink, appearing to read 'Charles Pearson', with a stylized, flowing script.

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

enclosure: replacement filing receipt